

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

DZ BANK AG DEUTSCHE ZENTRAL-)	
GENOSSENSCHAFTSBANK, FRANKFURT)	
AM MAIN, NEW YORK BRANCH,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-10-102-D
)	
HENDRICKSON INSURANCE SERVICES,)	
INC., and TROY K. HENDRICKSON,)	
)	
Defendants.)	

ORDER

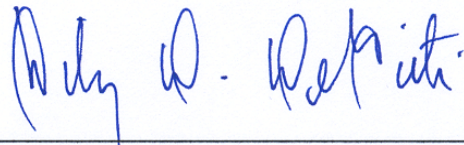
Before the Court is Plaintiff's Motion for Summary Judgment [Doc. No. 20], filed October 4, 2010, pursuant to Fed. R. Civ. P. 56 and LCvR56.1. Plaintiff seeks a judgment against Defendants Hendrickson Insurance Services, Inc. and Troy K. Hendrickson, jointly and severally, in the total amount of \$212,575.73, on the claims in the Complaint. The Motion is unopposed and, pursuant to the Order of December 15, 2011, is deemed confessed. Nevertheless, Rule 56(a) requires a determination that there is no genuine dispute as to any material fact and that Plaintiff is entitled to judgment as a matter of law, before summary judgment may be granted.

Upon consideration of the Motion and supporting materials, the Court finds that the material facts are undisputed. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a)(2) and personal jurisdiction over Defendants, who are citizens of Oklahoma. On May 31, 2006, and November 30, 2007, Defendant Hendrickson Insurance Services, Inc. executed promissory notes payable to Brooke Credit Corporation. The first loan in the amount of \$190,000.00 was refinanced by the second loan in the amount of \$196,584.90, bearing a variable rate of interest based on the New York Prime rate as published in the *Wall Street Journal*. Defendant Troy K. Hendrickson

executed a personal guaranty by which he unconditionally guaranteed payment of the corporation's loan obligation. Through subsequent assignments and agreements, Plaintiff became owner and holder of the note and personal guaranty in October, 2008. Defendants defaulted on the note and guaranty by failing to make payments when due, and have refused Plaintiff's demand for payment of the outstanding balance. As a result of Defendants' default, Plaintiff has suffered damages in the amount of \$189,708.18, plus accrued interest of \$16,095.90 as of September 29, 2010. Under these facts and Kansas law, which governs the dispute, Plaintiff is entitled to the judgment sought for unpaid principal and interest. Plaintiff is also contractually entitled to recover attorney's fees and costs, but the amount sought by the Motion for these items is not supported by the summary judgment record. Plaintiff may seek to recover these items by timely motion under Fed. R. Civ. P. 54(d), LCvR54.1 and LCvR54.2.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Summary Judgment Against Hendrickson Insurance Services, Inc. and Troy K. Hendrickson [Doc. No. 20] is GRANTED in substantial part, as set forth herein. Plaintiff shall recover a judgment against Defendants, jointly and severally, for unpaid principal and interest due as of September 29, 2010, in the amount of \$205,804.08. Judgment shall be entered accordingly.

IT IS SO ORDERED this 28th of December, 2011.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE